



DEPARTMENT OF HEALTH AND HUMAN SERVICES

[OMHA-1502-N]

Medicare Program; Administrative Law Judge Hearing Program for Medicare Claim and Entitlement Appeals; Quarterly Listing of Program Issuances—July Through September 2015

AGENCY: Office of Medicare Hearings and Appeals (OMHA), HHS.

ACTION: Notice.

SUMMARY: This quarterly notice lists the OMHA Case Processing Manual (OCPM) manual instructions that were published from July through September 2015. This manual standardizes the day-to-day procedures for carrying out adjudicative functions, in accordance with applicable statutes, regulations and OMHA directives, and gives OMHA staff direction for processing appeals at the OMHA level of adjudication.

FOR FURTHER INFORMATION CONTACT: Amanda Axeen, by telephone at (571) 777-2705, or by e-mail at amanda.axeen@hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Medicare Hearings and Appeals (OMHA), a staff division within the Office of the Secretary of the U.S. Department of Health and Human Services (HHS), administers the nationwide Administrative Law Judge (ALJ) hearing program for Medicare claim, organization and coverage determination, and entitlement appeals under sections 1869, 1155, 1876(c)(5)(B), 1852(g)(5), and 1860D-4(h) of the Social Security Act (the Act). OMHA ensures that Medicare beneficiaries and the providers and suppliers that furnish items or services to Medicare beneficiaries, as well as Medicare Advantage Organizations (MAOs) and Medicaid State

Agencies, have a fair and impartial forum to address disagreements with Medicare coverage and payment determinations made by Medicare contractors, MAOs, or Part D Plan Sponsors (PDPSs), and determinations related to Medicare eligibility and entitlement, Part B late enrollment penalties, and income-related monthly adjustment amounts (IRMAA) made by the Social Security Administration (SSA).

The Medicare claim, organization and coverage determination appeals processes consist of four levels of administrative review, and a fifth level of review with the Federal district courts after administrative remedies under HHS regulations have been exhausted. The first two levels of review are administered by the Centers for Medicare & Medicaid Services (CMS) and conducted by Medicare contractors for claim appeals, by MAOs and an independent review entity for Part C organization determination appeals, or by PDPSs and an independent review entity for Part D coverage determination appeals. The third level of review is administered by OMHA and conducted by Administrative Law Judges. The fourth level of review is administered by the HHS Departmental Appeals Board (DAB) and conducted by the Medicare Appeals Council. In addition, OMHA and the DAB administer the second and third levels of appeal, respectively, for Medicare eligibility, entitlement, Part B late enrollment penalty, and IRMAA reconsiderations made by SSA; a fourth level of review with the Federal district courts is available after administrative remedies within SSA and HHS have been exhausted.

Sections 1869, 1155, 1876(c)(5)(B), 1852(g)(5), and 1860D-4(h) of the Act are implemented through the regulations at 42 CFR part 405, subparts I and J; part 417, subpart Q; part 422, subpart M; part 423, subparts M and U; and part 478, subpart B. As noted above, OMHA administers the nationwide Administrative Law Judge hearing program in accordance with these statutes and applicable regulations. As part of that effort, OMHA has established the OMHA

Case Processing Manual (OCPM). Through the OCPM, the OMHA Chief Administrative Law Judge establishes the day-to-day procedures for carrying out adjudicative functions, in accordance with applicable statutes, regulations and OMHA directives. The OCPM provides direction for processing appeals at the OMHA level of adjudication for Medicare Part A and B claims; Part C organization determinations; Part D coverage determinations; and SSA eligibility and entitlement, Part B late enrollment penalty, and IRMAA determinations.

Section 1871(c) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**.

II. Format for the Quarterly Issuance Notices

This quarterly notice provides the specific updates to the OCPM that have occurred in the 3-month period. A hyperlink to the available chapters on the OMHA website is provided below. The OMHA website contains the most current, up-to-date chapters and revisions to chapters, and will be available earlier than we publish our quarterly notice. We believe the OMHA website list provides more timely access to the current OCPM chapters for those involved in the Medicare claim, organization and coverage determination and entitlement appeals processes. We also believe the website offers the public a more convenient tool for real time access to current OCPM provisions. In addition, OMHA has a listserv to which the public can subscribe to receive immediate notification of any updates to the OMHA website. This listserv avoids the need to check the OMHA website, as update notifications are sent to subscribers as they occur. If accessing the OMHA website proves to be difficult, the contact person listed above can provide the information.

III. How to Use the Notice

This notice lists the OCPM chapters and subjects published during the quarter covered by the notice so the reader may determine whether any are of particular interest. We expect this notice to be used in concert with the previously published notice. The OCPM can be accessed at http://www.hhs.gov/omha/OMHA_Case_Processing_Manual/index.html.

IV. OCPM Releases for July Through September 2015

The OCPM is used by OMHA adjudicators and staff to administer the OMHA program. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, and OMHA directives.

The following is a list and description of new and revised OCPM provisions, and the subject matter, that have been released in the covered 3-month period. The full text of current OCPM provisions is available on our website at

http://www.hhs.gov/omha/OMHA_Case_Processing_Manual/index.html.

OCPM Division I: General Matters

Chapter 4, Parties. This new chapter describes who qualify as parties to the ALJ hearing and review process under the applicable authorities to guide OMHA ALJs and support staff in ensuring those filing requests for hearing and requests for review with OMHA have standing to pursue appeals, and notices and other correspondence are sent to the appropriate individuals and entities in accordance with the authorities.

Chapter 5, Representatives. This new chapter describes the roles and responsibilities of party representatives in the ALJ hearing and review process, as well as the requirements to substantiate that an individual is authorized or appointed to act as a party representative under the applicable authorities.

Chapter 6, CMS and CMS Contractor Roles. This new chapter describes the roles and responsibilities of CMS and its contractors in the ALJ hearing and review process, including under what conditions and how CMS or a contractor may participate in the process, including at oral hearings before OMHA ALJs, in accordance with the applicable authorities.

OCPM Division II: Part A/B Claim Determinations

Chapter 3, Procedural Screening. This chapter has been updated to correct a typographical error. No substantive changes were made to the chapter.

Dated: _November 17, 2015.

Nancy J. Griswold,
Chief Administrative Law Judge,
Office of Medicare Hearings and Appeals,

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